IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 21816 of 2004

Between:

M/s.Siva Oil Rotary, Banaganpalli, Kurnool District, rep.by its Prop. M.Sreenivasulu.

..... PETITIONER

AND

Commercial Tax officer -II, Nandyal, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the respondent in not issuing statutory waybills to the petitioner to carry on his business as illegal, unjustified and contrary to provisions of the A.P.G.S.T. Act and consequently direct him to issue waybills forthwith.

Counsel for the Petitioner:MR.S.DWARAKANATH

Counsel for the Respondent: GP FOR COMMERCIAL TAXES

The Court at the admission stage made the following ORDER: (per BRSR,J)

We do not find any justification on the part of the respondent in not considering the request of the petitioner for issue of waybills. The issue is pending with the respondent ever since 10th June, 2004 for issue of fifty waybills, out of which, only six have been issued. The petitioner again applied on 20-09-2004 for issue of the remaining waybills and no decision thereon is taken by the respondent.

This Court in ***SRI KAMADHENU KHADI & VILLAGE INDUSTRIES WELFARE SOCIETY, KOLLURU v. COMMERCIAL TAX OFFICER, TENALI*** held that the only condition prescribed for issue of waybills is payment of costs and payment of tax is not one of the conditions prescribed thereon. That even if any tax is due from the petitioner, denial of the waybills is not the proper way to recover the tax.

In the circumstances, this writ petition is disposed of directing the respondent herein to forthwith issue the waybills as prayed for by the petitioner subject to payment of costs. The respondent shall not withhold the issuance of waybills on the ground that the tax is due from the petitioner. There shall be no order as to costs.

B.SUDERSHAN REDDY, J

DATE: 29th November, 2004

T.CH.SURYA RAO, J

Note: furnish copy of the order day after tomorrow.

B/o

ks/**kvni**

To

1 The Commercial Tax officer -II, Nandyal, Kurnool District

2 Two CCs to the Government Pleader for Commercial Taxes, A.P.High Court Buildings, Hyderabad (OUT).

3 Two CD copies.